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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,128	02/04/2004	Steven F. Seyer	702.120	4272
37902	7590	08/28/2006		
WRIGHT MEDICAL TECHNOLOGY, INC. 5677 AIRLINE ROAD ARLINGTON, TN 38002-9501			EXAMINER SCHILLINGER, ANN M	
			ART UNIT 3738	PAPER NUMBER
DATE MAILED: 08/28/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/772,128

Applicant(s)

SEYER ET AL.

Examiner

Ann Schillinger

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attachments A and B</u>                |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 148 and 168. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Amstutz (U.S. Pat. No. 6,063,124). Amstutz discloses the features of the acetabular component in claim 1: an acetabular component comprising a partial spherical body (40) having a peripheral surface circumscribing a cavity (hollow area inside element 44), a plurality of recesses (42) along an outer surface of said body each having an entry portion (outer rim of element 42) along said peripheral surface leading into an engagement portion (interior body space of element 42) angled (12; col. 2, lines 63-65) from said entry portion, each of said engagement portions having a first end (distal end of interior body space of element 42) aligned with said entry portion and a second end (proximal end of interior body space of element 42) extending beyond said entry portion to define a shoulder (in Figure 4, space between elements 42 and 40) between said second end and said peripheral surface (Figures 2-6). Please also see Attachment A.

Amstutz discloses the following regarding the insertion and extraction tool: an insertion and extraction tool (60) comprising an outer sleeve (74 or 76) having a distal end (end with element labeled 75) carrying a locking member (80) including a plurality of radially extending arms (82) and a locking finger (see attachment B) extending distally from each of said arms, an inner shaft (100), slidably (col. 6, lines 1-5) disposed in said outer sleeve and having a distal end carrying an engagement plate (see attachment B) disposed distally of said distal end of said outer sleeve and having a plurality of engagement protrusions (86), each of said engagement protrusions including a leg (88) extending distally from said engagement plate to a foot (see attachment B) angled from said leg, said engagement plate having a plurality of channels (see attachment B) therein slidably receiving said arms respectively, and a spring (col. 8, lines 24-30) biasing said outer sleeve and said shaft longitudinally to a locked position for said tool (Figures

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9-11, 13-15). The disclosure of the use of the tool in its locked position is in col. 6, lines 37-46. The disclosure of the tool in its unlocked position is in col. 6, lines 26-36. The actuating force of claim 1 used to mauever the tool, and its method of use in claim 3 is disclosed in col. 5, lines 24-44. For those details of use not entirely disclosed in Amstutz, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1951).

Amstutz discloses the following regarding claim 2: an acetabular component and an insertion and extraction tool as recited in claim 1 and further comprising an alignment member (90) disposed on said engagement plate for insertion in said cavity of said acetabular, component to facilitate alignment of said feet with said entry portions of said recesses.

Amstutz discloses the features for the acetabular component as described in claim 4 for claim 1 above. And Amstutz further discloses the thin-walled, partial spherical body in element 40 and an articular surface for a femoral head in col. 4, lines 28-42. (Figures 2, 3)

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amstutz in view of Ostiiguy Jr. et al. (U.S. Pat. No. 6,162,256). Amstutz does not disclose a specific thickness for the body of the acetabular component. However, Ostiiguy Jr. et al. teaches the body with a thickness of 3-6 mm in col. 4, lines 4-5, and 14-15. It would have been obvious to one of ordinary skill in the art at the time the invention was made, to adjust the thickness of the acetabular component to 3-6 mm as needed to fit a particular patient's physiology.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Schillinger whose telephone number is (571) 272-6652. The examiner can normally be reached on Mon. thru Fri. 9 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ann Schillinger  
August 17, 2006

*A. Stewart*  
ALVIN J. STEWART  
PRIMARY EXAMINER

# Attachment A

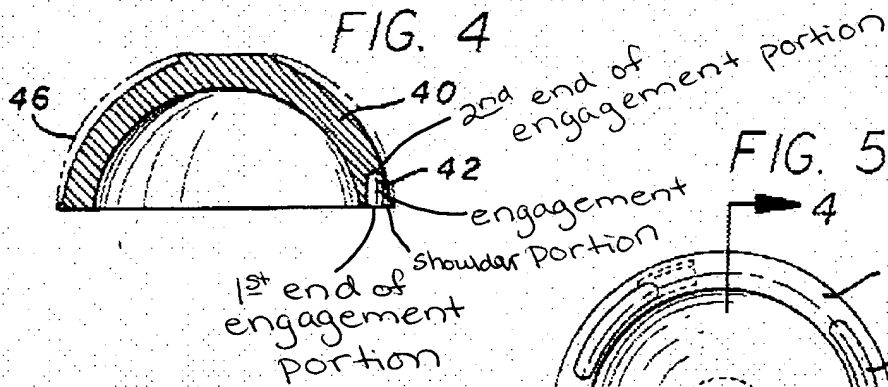
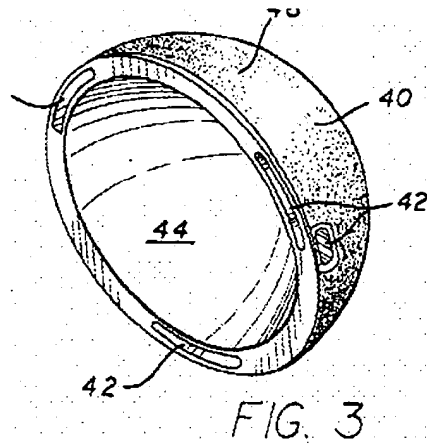


FIG. 6

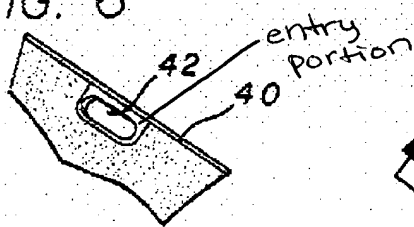
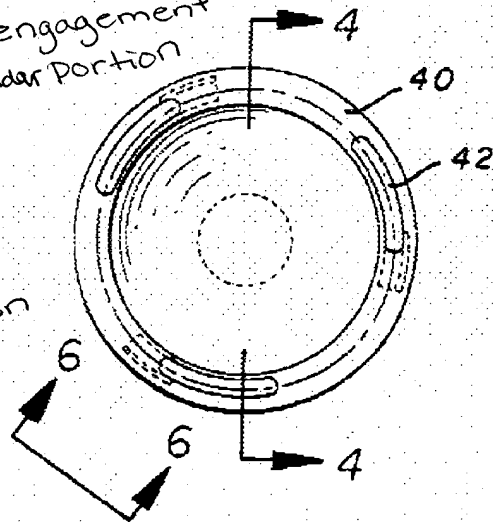


FIG. 5



Attachment B

